

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0226

PARK PLACE APARTMENTS, L.L.C.,

Plaintiff and Appellant,

v.

FARMERS UNION MUTUAL INSURANCE
COMPANY, WILLIAM F. WILHELM, and
MONTANA FARMERS UNION
INSURANCE AGENCY, INC.

Defendants and Appellees,

WILLIAM F. WILHELM,

Third-Party Plaintiff and
Appellee,

v.

WHITEFISH INSURANCE AGENCY, INC.,
A Montana Corporation,Third-Party Defendant
and Appellee.

FILED

AUG 03 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORDER

The Montana Trial Lawyers Association (MTLA) has requested leave to file an *amicus curiae* brief herein in support of the position of Appellant Park Place Apartments, L.L.C. The issue which the MTLA wishes to brief is the standard of care for insurance agents. Appellees Farmers Union Mutual Insurance Company and Whitefish Insurance Agency have no objection to the request. The *amicus* brief has been lodged with the Clerk of the Court and can be immediately filed.

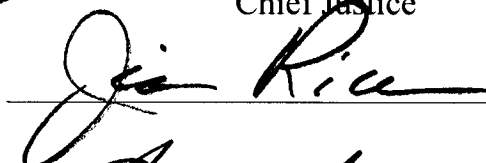
Appellees William F. Wilhelm and Montana Farmers Union Insurance Agency, Inc., have filed objections to the request. They cite to precedent holding that *amici* cannot create or enlarge issues before the Court, and argue that MTLA's brief raises an issue not raised in the district court—that a new standard of care for insurance agents should be adopted—because plaintiff sought relief in the district court only under current law. They also argue that MTLA's brief is virtually identical to the brief it filed in *Monroe v. Cogswell Agency*, 2010 MT 134, and “is nothing more than an attempt to reargue” the same position.

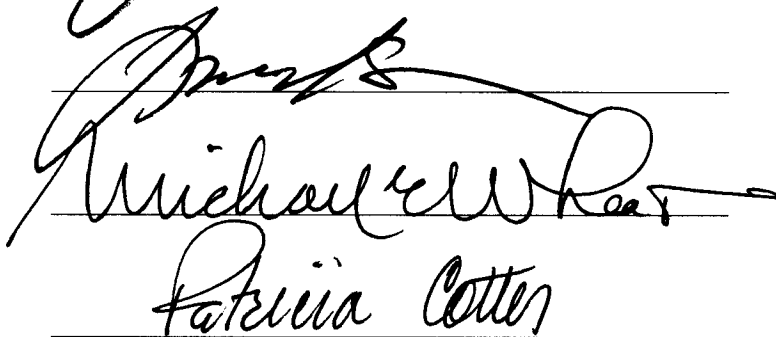
Appellees' briefing has not yet been filed. MTLA's *amicus* brief can be immediately filed and still allow an opportunity for Appellees to respond. We are mindful of the restrictions upon *amicus* arguments, and will review the MTLA brief accordingly. Therefore,

IT IS HEREBY ORDERED that the motion by MLTA for leave to file an *amicus* brief is GRANTED. The brief shall be filed immediately.

DATED this 3rd day of August, 2010.


Chief Justice


Justice


Justice


Justice

Justices